

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

William James Clark, #11798-055,)	Civil Action No. 1:13-556-MGL
)	
Plaintiff,)	
)	
v.)	
)	
)	
)	<u>OPINION AND ORDER</u>
Doctor V. Loranth, Clinical Director;)	
Warden Cruz; Associate Warden Johnson;)	
and Associate Warden Langford,)	
)	
Defendants.)	
)	

Pro se Plaintiff William James Clark, brings this action pursuant to 42 U.S.C. § 1983/*Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 392, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971). Plaintiff is an inmate at the Federal Correctional Institution in Williamsburg, South Carolina. Plaintiff complains that Defendants were deliberately indifferent to his medical needs. regarding his pre-incarceration use of steroids. He seeks monetary damages and injunctive relief.

On September 4, 2013, Defendants Doctor V. Loranth, Warden Cruz, Associate Warden Johnson, and Associate Warden Langford (“Defendants”) filed a motion to dismiss, or in the alternative, motion for summary judgment.¹ (ECF No. 47.) Since Plaintiff is *pro se* in this matter, the Court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) on September 4, 2013, advising Plaintiff of the importance of a dispositive motion and of the need for him to file an adequate response. (ECF No. 43.) Plaintiff filed a response in opposition on

¹Plaintiff was advised that the court intended to treat the motion as one for summary judgment under Fed. R. Civ. P. 56 because Defendant presented matters outside of the pleadings related to their affirmative defenses.

September 17, 2013. (ECF No. 46.)

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial handling and a Report and Recommendation (“Report”). On March 12, 2014, Magistrate Judge Hodges issued a Report recommending that Defendant’s motion for summary judgment be granted because the court lacks subject matter jurisdiction as to the official capacity claims, and because Plaintiff failed to exhaust his administrative remedies and failed to plead facts sufficient to state a claim against supervisory defendants for alleged constitution injuries inflicted by their subordinates. (ECF No. 48.). The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. (ECF No. 48 at 11.) Plaintiff filed no objections and the time for doing so expired on March 31, 2014

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the motion and response, the record, and the Report and Recommendation of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 48) by reference into this order. It is therefore ORDERED that Defendants' motion for summary judgment (ECF No. 42) is GRANTED, and this case dismissed.

IT IS SO ORDERED.

/s/ Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
April 8, 2014